



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

January 25, 2008

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Impacted IRMs: 11.3.9, 11.3.33 & 7.28.2

MEMORANDUM FOR CHIEF, DISCLOSURE AND GLD AREA MANAGERS

FROM: Joseph R. Aceto /s/ *Joseph R. Aceto*
Director, Governmental Liaison and Disclosure

SUBJECT: Interim Guidance on Pension Protection Act of 2006

The purpose of this memorandum is to issue interim guidance for Governmental Liaison and Disclosure employees responding to inquiries concerning the disclosure of confidential information to authorized state officials. Please disseminate this memorandum to your staffs.

Sources of Authority: The Pension Protection Act made disclosures under IRC 6104(c) to state charity officials (including state tax officers) subject to the nondisclosure restrictions of IRC 6103(a), the accounting and safeguard requirements of IRC 6103(p), and the civil and criminal penalties for unauthorized inspection and disclosure. IRC 6104(c) permits the IRS to notify certain State officers regarding any adverse or proposed adverse determinations specified in that section of the Code concerning organizations described in IRC 501(c)(3). It also permits the IRS to make other information available to these same officials upon request, to the extent that it was used in arriving at the IRS's determination and is related to a determination under State law. Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4). Returns and return information shall not be disclosed under this subsection or any of the afore mentioned proceedings, to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration. Disclosures under IRC 6104(c) will be made pursuant to a memorandum of understanding executed with state charity (including tax) officials that is similar in format to the Basic Agreements entered into under IRC 6103(d).

As noted above, IRC 6104(c) also encompasses disclosures of information to state tax officials. To the extent that particular exempt organization information is described in IRC 6104(c), it must be disclosed to state tax officials under the special rules and procedures of IRC 6104(c), and not the more general procedures of IRC 6103(d). In order to obtain IRC 6104(c) information, a separate memorandum of understanding containing those special rules and procedures must be executed by state tax officials.

Effect on Other Documents: This guidance will be incorporated into IRM 11.3.9, *Seals and Certificates*, 11.3.33, *Other Disclosures to State and Local Governments*, and 7.28.2, *Disclosure of Information about Exempt Organizations to Appropriate State Officials as Described in IRC 6104(c)* by January 25, 2009.

Contact: If you have any questions, please contact Leonard Smigelski, Senior Tax Law Specialist.

Expiration Date: This guidance will expire on January 25, 2009.

cc: www.irs.gov